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# Special Report: J&J knew for decades that asbestos lurked in its Baby Powder

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LOS ANGELES (Reuters) - Darlene Coker knew she was dying. She just wanted to know why.





Coker, 52 years old, had raised two daughters and was running a massage school in Lumberton, a small town in eastern Texas. How had she been exposed to asbestos? “She wanted answers,” her daughter Cady Evans said.

Fighting for every breath and in crippling pain, Coker hired Herschel Hobson, a personal-injury lawyer. He homed in on a suspect: the Johnson’s Baby Powder that Coker had used on her infant children and sprinkled on herself all her life. Hobson knew that talc and asbestos often occurred together in the earth, and that mined talc could be contaminated with the carcinogen. Coker sued Johnson & Johnson, alleging that “poisonous talc” in the company’s beloved product was her killer.

J&J denied the claim. Baby Powder was asbestos-free, it said. As the case proceeded, J&J was able to avoid handing over talc test results and other internal company records Hobson had requested to make the case against Baby Powder.

Coker had no choice but to drop her lawsuit, Hobson said. “When you are the plaintiff, you have the burden of proof,” he said. “We didn’t have it.”

That was in 1999. Two decades later, the material Coker and her lawyer sought is emerging as J&J has been compelled to share thousands of pages of company memos, internal reports and other confidential documents with lawyers for some of the 11,700 plaintiffs now claiming that the company’s talc caused their cancers — including thousands of women with ovarian cancer.

A Reuters examination of many of those documents, as well as deposition and trial testimony, shows that from at least 1971 to the early 2000s, the company’s raw talc and finished powders sometimes tested positive for small amounts of asbestos, and that company executives, mine managers, scientists, doctors and lawyers fretted over the problem and how to address it while failing to disclose it to regulators or the public.

The documents also depict successful efforts to influence U.S. regulators’ plans to limit asbestos in cosmetic talc products and scientific research on the health effects of talc.

A small portion of the documents have been produced at trial and cited in media reports. Many were shielded from public view by court orders that allowed J&J to turn over thousands of documents it designated as confidential. Much of their contents is reported here for the first time.

## **“RATHER HIGH”**

The earliest mentions of tainted J&J talc that Reuters found come from 1957 and 1958 reports by a consulting lab. They describe contaminants in talc from J&J’s Italian supplier as fibrous and “acicular,” or needle-like, tremolite. That’s one of the six minerals that in their naturally occurring fibrous form are classified as asbestos.

At various times from then into the early 2000s, reports by scientists at J&J, outside labs and J&J’s supplier yielded similar findings. The reports identify contaminants in talc and finished powder products as asbestos or describe them in terms typically applied to asbestos, such as “fiberform” and “rods.”

In 1976, as the U.S. Food and Drug Administration (FDA) was weighing limits on asbestos in cosmetic talc products, J&J assured the regulator that no asbestos was “detected in any sample” of talc produced between December 1972 and October 1973. It didn’t tell the agency that at least three tests by three different labs from 1972

to 1975 had found asbestos in its talc – in one case at levels reported as “rather high.”

Most internal J&J asbestos test reports Reuters reviewed do not find asbestos. However, while J&J’s testing methods improved over time, they have always had limitations that allow trace contaminants to go undetected – and only a tiny fraction of the company’s talc is tested.

The World Health Organization and other authorities recognize no safe level of exposure to asbestos. While most people exposed never develop cancer, for some, even small amounts of asbestos are enough to trigger the disease years later. Just how small hasn’t been established. Many plaintiffs allege that the amounts they inhaled when they dusted themselves with tainted talcum powder were enough.

The evidence of what J&J knew has surfaced after people who suspected that talc caused their cancers hired lawyers experienced in the decades-long deluge of litigation involving workers exposed to asbestos. Some of the lawyers knew from those earlier cases that talc producers tested for asbestos, and they began demanding J&J’s testing documentation.

What J&J produced in response to those demands has allowed plaintiffs’ lawyers to refine their argument: The culprit wasn’t necessarily talc itself, but also asbestos in the talc. That assertion, backed by decades of solid science showing that asbestos causes

mesothelioma and is associated with ovarian and other cancers, has had mixed success in court.

In two cases earlier this year – in New Jersey and California – juries awarded big sums to plaintiffs who, like Coker, blamed asbestos-tainted J&J talc products for their mesothelioma.

A third verdict, in St. Louis, was a watershed, broadening J&J's potential liability: The 22 plaintiffs were the first to succeed with a claim that asbestos-tainted Baby Powder and Shower to Shower talc, a longtime brand the company sold in 2012, caused ovarian cancer, which is much more common than mesothelioma. The jury awarded them \$4.69 billion in damages. Most of the talc cases have been brought by women with ovarian cancer who say they regularly used J&J talc products as a perineal antiperspirant and deodorant.

At the same time, at least three juries have rejected claims that Baby Powder was tainted with asbestos or caused plaintiffs' mesothelioma. Others have failed to reach verdicts, resulting in mistrials.

## **“JUNK” SCIENCE**

J&J has said it will appeal the recent verdicts against it. It has maintained in public statements that its talc is safe, as shown for years by the best tests available, and that the information it has been required to divulge in recent litigation shows the care the company takes to ensure its products are asbestos-free. It has blamed its

losses on juror confusion, “junk” science, unfair court rules and overzealous lawyers looking for a fresh pool of asbestos plaintiffs.

“Plaintiffs’ attorneys out for personal financial gain are distorting historical documents and intentionally creating confusion in the courtroom and in the media,” Ernie Knewitz, J&J’s vice president of global media relations, wrote in an emailed response to Reuters’ findings. “This is all a calculated attempt to distract from the fact that thousands of independent tests prove our talc does not contain asbestos or cause cancer. Any suggestion that Johnson & Johnson knew or hid information about the safety of talc is false.”

J&J declined to comment further for this article. For more than two months, it turned down repeated requests for an interview with J&J executives. On Dec. 8, the company offered to make an expert available. It had not done so as of Thursday evening.

The company referred all inquiries to its outside litigation counsel, Peter Bicks. In emailed responses, Bicks rejected Reuters’ findings as “false and misleading.” “The scientific consensus is that the talc used in talc-based body powders does not cause cancer, regardless of what is in that talc,” Bicks wrote. “This is true even if - and it does not - Johnson & Johnson’s cosmetic talc had ever contained minute, undetectable amounts of asbestos.” He dismissed tests cited in this article as “outlier” results.

In court, J&J lawyers have told jurors that company records showing that asbestos was detected in its talc referred to talc intended for

industrial use. Other records, they have argued, referred to non-asbestos forms of the same minerals that their experts say are harmless. J&J has also argued that some tests picked up “background” asbestos – stray fibers that could have contaminated samples after floating into a mill or lab from a vehicle clutch or fraying insulation.

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[J&J kept a guiding hand on talc safety research](#)

The company has made some of the same arguments about lab tests conducted by experts hired by plaintiffs. One of those labs found asbestos in Shower to Shower talc from the 1990s, according to an Aug. 11, 2017, court report. Another lab found asbestos in more than half of multiple samples of Baby Powder from past decades – in bottles from plaintiffs’ cupboards and acquired from eBay, and even a 1978 bottle held in J&J’s corporate museum. The concentrations were great enough that users “would have, more likely than not, been exposed,” the plaintiffs’ lab report presented in several cases this year concluded.

Matthew Sanchez, a geologist with consultants RJ Lee Group Inc and a frequent expert witness for J&J, dismissed those findings in testimony in the St. Louis trial: “I have not found asbestos in any of

the current or modern, what I consider modern, Johnson & Johnson talc products,” Sanchez told the jury.

Sanchez did not return calls seeking comment. RJ Lee said it does not comment on the work it does for clients.

Since 2003, talc in Baby Powder sold in the United States has come from China through supplier Imerys Talc America, a unit of Paris-based Imerys SA and a co-defendant in most of the talc litigation. Imerys and J&J said the Chinese talc is safe. An Imerys spokesman said the company’s tests “consistently show no asbestos. Talc’s safe use has been confirmed by multiple regulatory and scientific bodies.”

J&J, based in New Brunswick, New Jersey, has dominated the talc powder market for more than 100 years, its sales outpacing those of all competitors combined, according to Euromonitor International data. And while talc products contributed just \$420 million to J&J’s \$76.5 billion in revenue last year, Baby Powder is considered an essential facet of the healthcare-products maker’s carefully tended image as a caring company – a “sacred cow,” as one 2003 internal email put it.

“When people really understand what’s going on, I think it increases J&J’s exposure a thousand-fold,” said Mark Lanier, one of the lawyers for the women in the St. Louis case.

The mounting controversy surrounding J&J talc hasn't shaken investors. The share price is up about 6 percent so far this year. Talc cases make up fewer than 10 percent of all personal injury lawsuits pending against J&J, based on the company's Aug. 2 quarterly report, in which the company said it believed it had "strong grounds on appeal."

J&J Chairman and Chief Executive Officer Alex Gorsky has pledged to fight on, telling analysts in July: "We remain confident that our products do not contain asbestos."

Gorsky's comment, echoed in countless J&J statements, misses a crucial point. Asbestos, like many environmental carcinogens, has a long latency period. Diagnosis usually comes years after initial exposure – 20 years or longer for mesothelioma. J&J talc products today may be safe, but the talc at issue in thousands of lawsuits was sold and used over the past 60 years.

## **"SAFETY FIRST"**

In 1886, Robert Wood Johnson enlisted his younger brothers in an eponymous startup built around the "Safety First" motto. Johnson's Baby Powder grew out of a line of medicated plasters, sticky rubber strips loaded with mustard and other home remedies. When customers complained of skin irritation, the brothers sent packets of talc.

Soon, mothers began applying the talc to infants' diaper-chafed skin. The Johnsons took note. They added a fragrance that would become one of the most recognizable in the world, sifted the talc into tin boxes and, in 1893, began selling it as Johnson's Baby Powder.

In the late 1950s, J&J discovered that talc from its chief source mine for the U.S. market in the Italian Alps contained tremolite. That's one of six minerals – along with chrysotile, actinolite, amosite, anthophyllite and crocidolite – that occur in nature as crystalline fibers known as asbestos, a recognized carcinogen. Some of them, including tremolite, also occur as unremarkable “non-asbestiform” rocks. Both forms often occur together and in talc deposits.

J&J's worry at the time was that contaminants made the company's powder abrasive. It sent tons of its Italian talc to a private lab in Columbus, Ohio, to find ways to improve the appearance, feel and purity of the powder by removing as much “grit” as possible. In a pair of reports from 1957 and 1958, the lab said the talc contained “from less than 1 percent to about 3 percent of contaminants,” described as mostly fibrous and “acicular” tremolite.

Most of the authors of these and other J&J records cited in this article are dead. Sanchez, the RJ Lee geologist whose firm has agreed to provide him as a witness in up to 100 J&J talc trials, has testified that tremolite found decades ago in the company's talc, from Italy and later Vermont, was not tremolite asbestos at all. Rather, he has said, it was “cleavage fragments” from non-asbestiform tremolite.

J&J's original records don't always make that distinction. In terms of health risk, regulators since the early 1970s have treated small fiber-shaped particles of both forms the same.

The U.S. Environmental Protection Agency, for example, "makes no distinction between fibers and (comparable) cleavage fragments," agency officials wrote in a response to an RJ Lee report on an unrelated matter in 2006, the year before the firm hired Sanchez. The Occupational Safety and Health Administration (OSHA), though it dropped the non-fibrous forms of the minerals from its definition of asbestos in 1992, nonetheless recommends that fiber-shaped fragments indistinguishable from asbestos be counted in its exposure tests.

And as the product safety director for J&J's talc supplier acknowledged in a 2008 email to colleagues: "(I)f a deposit contains 'non-asbestiform' tremolite, there is also asbestiform tremolite naturally present as well."

## **"THE LUNGS OF BABIES"**

In 1964, J&J's Windsor Minerals Inc subsidiary bought a cluster of talc mines in Vermont, with names like Argonaut, Rainbow, Frostbite and Black Bear. By 1966, it was blasting and bulldozing white rock out of the Green Mountain state. J&J used the milled powder in its cosmetic powders and sold a less-refined grade to roofing, flooring and tire companies for use in manufacturing.

Ten years after tremolite turned up in the Italian talc, it showed up in Vermont talc, too. In 1967, J&J found traces of tremolite and another mineral that can occur as asbestos, according to a table attached to a Nov. 1, 1967, memo by William Ashton, the executive in charge of J&J's talc supply for decades.

J&J continued to search for sources of clean talc. But in an April 9, 1969, memo to a company doctor, Ashton said it was "normal" to find tremolite in many U.S. talc deposits. He suggested J&J rethink its approach. "Historically, in our Company, Tremolite has been bad," Ashton wrote. "How bad is Tremolite medically, and how much of it can safely be in a talc base we might develop?"

Since pulmonary disease, including cancer, appeared to be on the rise, "it would seem to be prudent to limit any possible content of Tremolite ... to an absolute minimum," came the reply from another physician executive days later.

The doctor told Ashton that J&J was receiving safety questions from pediatricians. Even Robert Wood Johnson II, the founder's son and then-retired CEO, had expressed "concern over the possibility of the adverse effects on the lungs of babies or mothers," he wrote.

"We have replied," the doctor wrote, that "we would not regard the usage of our powders as presenting any hazard." Such assurances would be impossible, he added, "if we do include Tremolite in more than unavoidable trace amounts."

The memo is the earliest J&J document reviewed by Reuters that discusses tremolite as more than a scratchy nuisance. The doctor urged Ashton to consult with company lawyers because “it is not inconceivable that we could become involved in litigation.”

## **NEVER “100% CLEAN”**

By the early 1970s, asbestos was widely recognized as the primary cause of mesothelioma among workers involved in producing it and in industries that used it in their products.

Regulation was in the air. In 1972, President Richard Nixon’s newly created OSHA issued its first rule, setting limits on workplace exposure to asbestos dust.

By then, a team at Mount Sinai Medical Center led by pre-eminent asbestos researcher Irving Selikoff had started looking at talcum powders as a possible solution to a puzzle: Why were tests of lung tissue taken post mortem from New Yorkers who never worked with asbestos finding signs of the mineral? Since talc deposits are often laced with asbestos, the scientists reasoned, perhaps talcum powders played a role.

They shared their preliminary findings with New York City’s environmental protection chief, Jerome Kretchmer. On June 29, 1971, Kretchmer informed the Nixon administration and called a press conference to announce that two unidentified brands of cosmetic talc appeared to contain asbestos.

The FDA opened an inquiry. J&J issued a statement: “Our fifty years of research knowledge in this area indicates that there is no asbestos contained in the powder manufactured by Johnson & Johnson.”

Later that year, another Mount Sinai researcher, mineralogist Arthur Langer, told J&J in a letter that the team had found a “relatively small” amount of chrysotile asbestos in Baby Powder.

Langer, Selikoff and Kretchmer ended up on a J&J list of “antagonistic personalities” in a Nov. 29, 1972, memo, which described Selikoff as the leader of an “attack on talc.”

“I suppose I was antagonistic,” Langer told Reuters. Even so, in a subsequent test of J&J powders in 1976, he didn’t find asbestos – a result that Mount Sinai announced.

Langer said he told J&J lawyers who visited him last year that he stood by all of his findings. J&J has not called him as a witness.

Selikoff died in 1992. Kretchmer said he recently read that a jury had concluded that Baby Powder was contaminated with asbestos. “I said to myself, ‘How come it took so long?’ “ he said.

In July 1971, meanwhile, J&J sent a delegation of scientists to Washington to talk to the FDA officials looking into asbestos in talcum powders. According to an FDA account of the meeting, J&J shared “evidence that their talc contains less than 1%, if any, asbestos.”

Later that month, Wilson Nashed, one of the J&J scientists who visited the FDA, said in a memo to the company's public relations department that J&J's talc contained trace amounts of "fibrous minerals (tremolite/actinolite)."

## **"INCONTROVERTIBLE ASBESTOS"**

As the FDA continued to investigate asbestos in talc, J&J sent powder samples to be tested at private and university labs. Though a private lab in Chicago found trace amounts of tremolite, it declared the amount "insignificant" and the samples "substantially free of asbestiform material." J&J reported that finding to the FDA under a cover letter that said the "results clearly show" the samples tested "contain no chrysotile asbestos." J&J's lawyer told Reuters the tremolite found in the samples was not asbestos.

But J&J's FDA submission left out University of Minnesota professor Thomas E. Hutchinson's finding of chrysotile in a Shower to Shower sample – "incontrovertible asbestos," as he described it in a lab note.

The FDA's own examinations found no asbestos in J&J powder samples in the 1970s. Those tests, however, did not use the most sensitive detection methods. An early test, for example, was incapable of detecting chrysotile fibers, as an FDA official recognized in a J&J account of an Aug. 11, 1972, meeting with the agency: "I understand that some samples will be passed even though they contain such fibers, but we are willing to live with it."

By 1973, Tom Shelley, director of J&J's Central Research Laboratories in New Jersey, was looking into acquiring patents on a process that a British mineralogist and J&J consultant was developing to separate talc from tremolite.

"It is quite possible that eventually tremolite will be prohibited in all talc," Shelley wrote on Feb. 20, 1973, to a British colleague. Therefore, he added, the "process may well be valuable property to us."

At the end of March, Shelley recognized the sensitivity of the plan in a memo sent to a J&J lawyer in New Jersey: "We will want to carefully consider the ... patents re asbestos in talc. It's quite possible that we may wish to keep the whole thing confidential rather than allow it to be published in patent form and thus let the whole world know."

J&J did not obtain the patents.

While Shelley was looking into the patents, J&J research director DeWitt Petterson visited the company's Vermont mining operation. "Occasionally, sub-trace quantities of tremolite or actinolite are identifiable," he wrote in an April 1973 report on the visit. "And these might be classified as asbestos fiber."

J&J should "protect our powder franchise" by eliminating as many tiny fibers that can be inhaled in airborne talc dust as possible, Petterson wrote. He warned, however, that "no final product will

ever be made which will be totally free from respirable particles.”  
Introducing a cornstarch version of Baby Powder, he noted, “is obviously another answer.”

Bicks told Reuters that J&J believes that the tremolite and actinolite Petterson cited were not asbestos.

Cornstarch came up again in a March 5, 1974, report in which Ashton, the J&J talc supply chief, recommended that the company research that alternative “for defensive reasons” because “the thrust against talc has centered primarily on biological problems alleged to result from the inhalation of talc and related mineral particles.”

## **“WE MAY HAVE PROBLEMS”**

A few months after Petterson’s recognition that talc purity was a pipe dream, the FDA proposed a rule that talc used in drugs contain no more than 0.1 percent asbestos. While the agency’s cosmetics division was considering similar action on talcum powders, it asked companies to suggest testing methods.

At the time, J&J’s Baby Powder franchise was consuming 20,000 tons of Vermont talc a year. J&J pressed the FDA to approve an X-ray scanning technique that a company scientist said in an April 1973 memo allowed for “an automatic 1% tolerance for asbestos.” That would mean talc with up to 10 times the FDA’s proposed limit for asbestos in drugs could pass muster.

The same scientist confided in an Oct. 23, 1973, note to a colleague that, depending on what test the FDA adopted for detecting asbestos in cosmetic talc, “we may have problems.”

The best way to detect asbestos in talc was to concentrate the sample and then examine it through microscopes, the Colorado School of Mines Research Institute told J&J in a Dec. 27, 1973, report. In a memo, a J&J lab supervisor said the concentration technique, which the company’s own researchers had earlier used to identify a “tremolite-type” asbestos in Vermont talc, had one limitation: “It may be too sensitive.”

In his email to Reuters, J&J’s lawyer said the lab supervisor’s concern was that the test would result in “false positives,” showing asbestos where there was none.

J&J also launched research to find out how much powder a baby was exposed to during a diapering and how much asbestos could be in that powder and remain within OSHA’s new workplace exposure limits. Its researchers had strapped an air sampling device to a doll to take measurements while it was powdered, according to J&J memos and the minutes of a Feb. 19, 1974, meeting of the Cosmetic Toiletry and Fragrance Association (CTFA), an industry group.

“It was calculated that even if talc were pure asbestos the levels of exposure of a baby during a normal powdering are far below the accepted tolerance limits,” the minutes state.

In a Sept. 6, 1974, letter, J&J told the FDA that since “a substantial safety factor can be expected” with talc that contains 1 percent asbestos, “methods capable of determining less than 1% asbestos in talc are not necessary to assure the safety of cosmetic talc.”

Not everyone at the FDA thought that basing a detection method on such a calculation was a good idea. One official called it “foolish,” adding, according to a J&J account of a February 1975 meeting: “No mother was going to powder her baby with 1% of a known carcinogen irregardless of the large safety factor.”

#### PUSH FOR SELF-REGULATION

Having failed to persuade the FDA that up to 1 percent asbestos contamination was tolerable, J&J began promoting self-policing as an alternative to regulation. The centerpiece of this approach was a March 15, 1976, package of letters from J&J and other manufacturers that the CTFA gave to the agency to show that they had succeeded at eliminating asbestos from cosmetic talc.

“The attached letters demonstrate responsibility of industry in monitoring its talcs,” the cover letter said. “We are certain that the summary will give you assurance as to the freedom from contamination by asbestos for materials of cosmetic talc products.”

In its letter, J&J said samples of talc produced between December 1972 and October 1973 were tested for asbestos, and none was detected “in any sample.”

J&J didn't tell the FDA about a 1974 test by a professor at Dartmouth College in New Hampshire that turned up asbestos in talc from J&J – “fiberform” actinolite, as he put it. Nor did the company tell the FDA about a 1975 report from its longtime lab that found particles identified as “asbestos fibers” in five of 17 samples of talc from the chief source mine for Baby Powder. “Some of them seem rather high,” the private lab wrote in its cover letter.

Bicks, the J&J lawyer, said the contract lab's results were irrelevant because the talc was intended for industrial use. He said the company now believes that the actinolite the Dartmouth professor found “was not asbestiform,” based on its interpretation of a photo in the original lab report.

Just two months after the Dartmouth professor reported his findings, Windsor Minerals Research and Development Manager Vernon Zeitz wrote that chrysotile, “fibrous anthophyllite” and other types of asbestos had been “found in association with the Hammondsville ore body” – the Vermont deposit that supplied Baby Powder talc for more than two decades.

Zeitz's May 1974 report on efforts to minimize asbestos in Vermont talc “strongly urged” the adoption of ways to protect “against what are currently considered to be materials presenting a severe health hazard and are potentially present in all talc ores in use at this time.”

Bicks said that Zeitz was not reporting on actual test results.

The following year, Zeitz reported that based on weekly tests of talc samples over six months, “it can be stated with a greater than 99.9% certainty that the ores and materials produced from the ores at all Windsor Mineral locations are free from asbestos or asbestiform minerals.”

## **“MISREPRESENTATION BY OMISSION”**

J&J’s selective use of test results figured in a New Jersey judge’s decision this year to affirm the first verdict against the company in a case claiming asbestos in J&J products caused cancer. “Providing the FDA favorable results showing no asbestos and withholding or failing to provide unfavorable results, which show asbestos, is a form of a misrepresentation by omission,” Middlesex County Superior Court Judge Ana Viscomi said in her June ruling.

“J&J respectfully disagrees with the Judge’s comments,” Bicks said. “J&J did not withhold any relevant testing from FDA.”

The FDA declined to comment on the ruling.

Lacking consensus on testing methods, the FDA postponed action to limit asbestos in talc. Years later, it did set limits on asbestos in talc used in drugs. It has never limited asbestos in cosmetic talc or established a preferred method for detecting it.

Instead, in 1976, a CTFA committee chaired by a J&J executive drafted voluntary guidelines, establishing a form of X-ray scanning

with a 0.5 percent detection limit as the primary test, the method J&J preferred. The method is not designed to detect the most commonly used type of asbestos, chrysotile, at all. The group said the more sensitive electron microscopy was impractical.

The CTFA, which now does business as the Personal Care Products Council, declined to comment.

X-ray scanning is the primary method J&J has used for decades. The company also periodically requires the more sensitive checks with electron microscopes. J&J's lawyer said the company's tests exceed the trade association standard, and they do. He also said that today, J&J's X-ray scans can detect suspect minerals at levels as low as 0.1 percent of a sample.

But the company never adopted the Colorado lab's 1973 recommendation that samples be concentrated before examination under a microscope. And the talc samples that were subjected to the most sensitive electron microscopy test were a tiny fraction of what was sold. For those and other reasons, J&J couldn't guarantee its Baby Powder was asbestos-free when plaintiffs used it, according to experts, including some who testified for plaintiffs.

As early as 1976, Ashton, J&J's longtime talc overseer, recognized as much in a memo to colleagues. He wrote that talc in general, if subjected to the most sensitive testing method, using concentrated samples, "will be hard pressed in supporting purity claims." He

described this sort of testing as both “sophisticated” and “disturbing.”

## **“FREE OF HAZARD”**

By 1977, J&J appeared to have tamped down concerns about the safety of talc. An internal August report on J&J’s “Defense of Talc Safety” campaign noted that independent authorities had deemed cosmetic talc products to be “free of hazard.” It attributed “this growing opinion” to the dissemination to scientific and medical communities in the United States and Britain of “favorable data from the various J&J sponsored studies.”



Slideshow (18 Images)

In 1984, FDA cosmetics chief and former J&J employee Heinz Eiermann reiterated that view. He told the New York Times that the agency’s investigation a decade earlier had prompted the industry to ensure that talc was asbestos-free.

“So in subsequent analyses,” he told the paper, “we really could not identify asbestos or only on very rare occasions.”

Two years later, the FDA rejected a citizen request that cosmetic talc carry an asbestos warning label, saying that even if there were trace

contamination, the use of talc powder during two years of normal diapering would not increase the risk of cancer.

In 1980, J&J began offering a cornstarch version of Baby Powder – to expand its customer base to people who prefer cornstarch, the company says.

The persistence of the industry’s view that cosmetic talc is asbestos-free is why no studies have been conducted on the incidence of mesothelioma among users of the products. It’s also partly why regulations that protect people in mines, mills, factories and schools from asbestos-laden talc don’t apply to babies and others exposed to cosmetic talc – even though Baby Powder talc has at times come from the same mines as talc sold for industrial use. J&J says cosmetic talc is more thoroughly processed and thus purer than industrial talc.

Until recently, the American Cancer Society (ACS) accepted the industry’s position, saying on its website: “All talcum products used in homes have been asbestos-free since the 1970s.”

After receiving inquiries from Reuters, the ACS in early December revised its website to remove the assurance that cosmetic talcs are free of asbestos. Now, it says, quoting the industry’s standards, that all cosmetic talc products in the United States “should be free from detectable amounts of asbestos.”

The revised ACS web page also notes that the World Health Organization's International Agency for Research on Cancer classifies talc that contains asbestos as "carcinogenic to humans."

Despite the success of J&J's efforts to promote the safety of its talc, the company's test lab found asbestos fibers in samples taken from the Vermont operation in 1984, 1985 and 1986. Bicks said: "The samples that we know of during this time period that contained a fiber or two of asbestos were not cosmetic talc samples."

Then, in 1992, three years after J&J sold its Vermont mines, the new owner, Cyprus Minerals, said in an internal report on "important environmental issues" in its talc reserves that there was "past tremolite" in the Hammondsville deposit. Hammondsville was the primary source of Baby Powder talc from 1966 until its shutdown in 1990.

Bicks rejected the Cyprus report as hearsay, saying there is no original documentation to confirm it. Hammondsville mine records, according to a 1993 J&J memo, "were destroyed by the mine management staff just prior to the J&J divestiture."

Bicks said the destroyed documents did not include talc testing records.

In 2002 and 2003, Vermont mine operators found chrysotile asbestos fibers on several occasions in talc produced for Baby Powder sold in Canada. In each case, a single fiber was recorded – a

finding deemed “BDL” – below detection limit. Bicks described the finding as “background asbestos” that did not come from any talc source.

In 2009, the FDA, responding to growing public concern about talc, commissioned tests on 34 samples, including a bottle of J&J Baby Powder and samples of Imerys talc from China. No asbestos was detected.

FDA Commissioner Scott Gottlieb said the agency continues to receive a lot of questions about talc cosmetics. “I recognize the concern,” he told Reuters. He said the agency’s policing of cosmetics in general – fewer than 30 people regulating a “vast” industry – was “a place where we think we can be doing more.”

Gottlieb said the FDA planned to host a public forum in early 2019 to “look at how we would develop standards for evaluating any potential risk.” An agency spokeswoman said that would include examining “scientific test methods for assessment of asbestos.”

## **“FISHING EXPEDITION”**

Before law school, Herschel Hobson worked at a rubber plant. There, his job included ensuring that asbestos in talc the workers were exposed to didn’t exceed OSHA limits.

That’s why he zeroed in on Johnson’s Baby Powder after he took on Darlene Coker as a client in 1997. The lawsuit Coker and her

husband, Roy, filed that year against J&J in Jefferson County District Court in Beaumont, Texas, is the earliest Reuters found alleging Baby Powder caused cancer.

Hobson asked J&J for any research it had into the health of its mine workers; talc production records from the mid-1940s through the 1980s; depositions from managers of three labs that tested talc for J&J; and any documents related to testing for fibrous or asbestiform materials.

J&J objected. Hobson's "fishing expedition" would not turn up any relevant evidence, it asserted in a May 6, 1998, motion. In fact, among the thousands of documents Hobson's request could have turned up was a letter J&J lawyers had received only weeks earlier from a Rutgers University geologist confirming that she had found asbestos in the company's Baby Powder, identified in her 1991 published study as tremolite "asbestos" needles.

Hobson agreed to postpone his discovery demands until he got the pathology report on Coker's lung tissue. Before it came in, J&J asked the judge to dismiss the case, arguing that Coker had "no evidence" Baby Powder caused mesothelioma.

Ten days later, the pathology report landed: Coker's lung tissue contained tens of thousands of "long fibers" of four different types of asbestos. The findings were "consistent with exposure to talc containing chrysotile and tremolite contamination," the report concluded.

“The asbestos fibers found raise a new issue of fact,” Hobson told the judge in a request for more time to file an opposition to J&J’s dismissal motion. The judge gave him more time but turned down his request to resume discovery.

Without evidence from J&J and no hope of ever getting any, Hobson advised Coker to drop the suit.

Hobson is still practicing law in Nederland, Texas. When Reuters told him about the evidence that had emerged in recent litigation, he said: “They knew what the problems were, and they hid it.” J&J’s records would have made a “100% difference” in Coker’s case.

Had the information about asbestos in J&J’s talc come out earlier, he said, “maybe there would have been 20 years less exposure” for other people.

Bicks, the J&J lawyer, said Coker dropped her case because “the discovery established that J&J talc had nothing to do with Plaintiff’s disease, and that asbestos exposure from a commercial or occupational setting was the likely cause.”

Coker never learned why she had mesothelioma. She did beat the odds, though. Most patients die within a year of diagnosis. Coker held on long enough to see her two grandchildren. She died in 2009, 12 years after her diagnosis, at age 63.

Coker’s daughter Crystal Deckard was 5 when her sister, Cady, was born in 1971. Deckard remembers seeing the white bottle of Johnson’s Baby Powder on the changing table where her mother diapered her new sister.

“When Mom was given this death sentence, she was the same age as I am right now,” Deckard said. “I have it in the back of my mind all the time. Could it happen to us? Me? My sister?”

(This story has been refiled to specify in paragraph 29 the Imerys SA unit that is co-defendant with J&J in talc litigation.)

Edited by Janet Roberts and John Blanton

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